

AMENDMENT UNDER 37 C.F.R. § 1.114  
Appln. No. 09/985,856  
Docket No. Q67030

### **REMARKS**

As an initial matter, as discussed with Examiner Hsieh on March 3 and March 9, 2004, the Patent and Trademark Office (“PTO”) erroneously mailed a new Office Action to Applicant’s representative on February 23, 2004 due to a PTO clerical error in the handling of the Petition to Suspend Action filed January 28, 2004. The rejections of pending claims 5, 8, 12, and 13 in this Office Action are almost identical<sup>1</sup> to the rejections found in the Final Office Action dated August 28, 2003, to which this Amendment responds.

Applicant notes with appreciation that the Examiner indicated during a teleconference on March 9, 2004 that the Examiner would not issue a Final Rejection in response to the present Amendment in view of the PTO’s clerical error and inadvertent mailing of the February 23, 2004 Office Action.

Independent claims 5, 8, and 12, are all the claims pending in the application. By this amendment, Applicant cancels claim 13.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 5 and 7-8 are rejected under 35 U.S.C. § 103(a) as being allegedly obvious over WO99/17007 to Karlsson (“Karlsson”) in view of U.S. 5,738,184 to Masuda et al. (“Masuda ”). Claims 12-14 are rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Karlsson in view of U.S. 6,250,075 to Funakoshi et al. (“Funakoshi”), and further in view of U.S. 4,890,690 to Fischer et al. (“Fischer”).

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<sup>1</sup> The Examiner has rejected several claims that were previously canceled. Applicant’s remarks are only directed to the claims of record as of the Office Action mailed August 28, 2003.

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As an initial matter, dependent claims 7, 13, and 14 have been canceled by either this Amendment or the Amendment filed November 26, 2003. As such, the rejection of these claims is moot.

Applicant has amended each of claims 5, 8, and 12 to recite a muffler having *inter alia* a partition board dividing the muffler having a chamber gas inlet aperture connecting to an engine exhaust gas outlet and a chamber gas outlet aperture into a first expansion chamber and a second expansion chamber; an exhaust gas upstream flow-in portion formed by the partition board, the first exhaust gas purifier and the first cover plate in the first expansion chamber; and an exhaust gas downstream flow-in portion formed by the partition board, the first exhaust gas purifier and the second cover plate in the second expansion chamber. These amendments are fully supported by the original specification at least at the discussion of the *non-limiting* embodiments on pages 3 and 11 of the specification.

It is noted that the invention provides a flow of exhaust gas that is slower, which improves purification efficiency and sound elimination efficiency. See Specification at page 10, lines 6-8.

Applicants respectfully request the Examiner to withdraw the rejection of amended claim 5 at least because the applied combinations of references does not teach or suggest all of the recitations of this claim.

For example, the combination of Karlsson and Masuda does not teach or suggest a muffler having a partition portion, a first cover plate that is an element of an exhaust gas

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upstream flow-in portion, and a second cover plate that is an element of an exhaust gas downstream flow-out portion.

For example, the embodiment shown in FIGs. 1-3 of Karlsson, which the Examiner relies on to support the rejection, does not have an exhaust gas downstream flow-out portion that includes a coverplate. Instead, what the Examiner appears to assert as the “cover plate” is instead merely a part of the partition wall 10.

As such, Applicant respectfully request the Examiner to withdraw the rejection of claims 5.

Furthermore, Applicants respectfully request the Examiner to withdraw the rejections of claims 8 and 12 for at least the reasons discussed above with respect to claim 5.

Finally, in addition to the reasons discussed above, Applicants respectfully submit that claim 8 should be allowable at least because of the combination of Karlsson and Masuda does not teach or suggest the claimed engine muffler having a first gas purifier is capable of being taken out for cleaning or replacement.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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